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11 FEDERAL INSURANCE COMPANY

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

19 The motion of defendants Travelers Property Casualty Company of America and  
20 Federal Insurance Company, to dismiss the complaint of plaintiff Second Walnut Creek  
21 Mutual, pursuant to Federal Rule of Civil Procedure 12(b)(6), came on regularly for hearing on  
22 the 2:00 p.m. calendar on August 14, 2008, in Courtroom 2 of the above-entitled court, located  
23 at 1301 Clay Street, Oakland, California, the Honorable Claudia Wilken presiding. Michael J.  
24 Hughes appeared for plaintiffs; Marjie D. Barrows appeared on behalf of defendant Travelers  
25 Property Casualty Company of America; and Ronald F. Remmel of Newton Remmel appeared  
26 on behalf of defendant Federal Insurance Company.

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Upon having considered the arguments of counsel, both written and oral, and good cause appearing, the Court rules and orders as follows:

3 1. Defendants' motion to dismiss plaintiff's Complaint for Breach of Contract,  
4 Breach of Implied Covenant Of Good Faith And Fair Dealing, Declaratory  
5 Relief And Punitive Damages is granted on the grounds that the complaint fails  
6 to state a claim upon which relief can be granted. Defendants' denial of the  
7 costs incurred by plaintiff to repair the underground portion of the plumbing  
8 system was proper since those costs are excluded under the involved insurance  
9 policy, which is attached to the Complaint, and there has been no breach of  
10 contract as a matter of law. Furthermore, since the denial of coverage was  
11 proper, the facts not support a claim for breach of the covenant of good faith and  
12 fair dealing or punitive damages as a matter of law.  
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DATED:

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CLAUDIA WILKEN  
JUDGE OF THE UNITED STATES DISTRICT  
COURT